IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1309 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

JITENDRA K METHA - Petitioner(s)
Versus
JT DIRECTOR OF AGRICULTURE & 2 - Respondent(s)

==========

Appearance :
MR AM RAVAL for Petitioner(s) : 1,
MR MUKESH PATEL, AGP for Respondent(s) : 1 - 3.
==========

CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 24/03/2006

ORAL JUDGMENT

1. The petitioner has filed this petition under Article-226 of the Constitution of India praying for the direction to the respondent

restraining him from proceeding with the departmental inquiry pending criminal case being Criminal Case No.3391 of 1996 before the Judicial Magistrate (First Class). The petitioner has also prayed for the direction to the respondent not to compel the petitioner to appear in the departmental proceedings and direct the respondent to proceed in the departmental inquiry only after Criminal Case No.3391 of 1996. The petitioner has also prayed for the direction to the respondent not to act further in the departmental inquiry initiated against the petitioner pending Criminal Case against the petitioner before the Judicial Magistrate (First Class) at Gandhinagar.

2. The petition was admitted and rule was issued on 12.2.1997. The Court has also granted interim relief staying departmental inquiry against the petitioner during the pendency of

the Court proceeding against the petitioner.

3. It is the case of the petitioner that the petitioner was charge-sheeted in Criminal Case No.3391 of 1996 before the Judicial Magistrate First Class at Gandhinagar, alleging that the petitioner has sold the waste office records amounting to Rs.265/-. Pending criminal proceedings, the departmental inquiry has been initiated and on 27.1.1997 a further notice was issued to reply within 10 days of the receipt of the notice. The petitioner approached this Court raising question as to whether departmental proceedings can be initiated pending criminal proceedings in view of law laid down by the Hon'ble Supreme Court in the case of Kursheshwar Dube vs. M/s.Bharat Coking Coal Limited, reported in AIR 1988 and in case of M.R.Meena Vs. Chief Secretary, reported in AIR 1991(1) GLH (uj.) 2.

4. The respondent authority has filed affidavit-in-reply on 2.12.2005 wherein it is stated that the criminal trial was over and petitioner was acquitted from the charges. It is, therefore, submitted that the petition has become infructuous. It is further stated that against the acquittal order, the respondent authority has filed Criminal Appeal No.112 of 1999 which is pending before this Court.

5. After having heard Mr.Anil M. Raval, the learned advocate appearing for petitioner and Mr.Mukesh Patel, learned AGP appearing for the respondent, the Court is of the view that the relief prayed for in the application is to the effect that no departmental inquiry be proceeded with during the pendency of the criminal trial and since the criminal trial is over and the petitioner is acquitted, the present petition has become infructuous.

6. The petition is, therefore, dismissed as having become infructuous. Rule is discharged without any order as to costs.

(K. A. PUJ, J.)

kks